Court No.1

Second Appeal No.934 of 2001.

Kshetriya Gandhi Ashram, Society
Registration No.21 of 1860,
Karim Bux, Kurli, Mussoorie,
District-Dehradun .....Appellants

Versus

M/s Ram Chandra & Bros.,
Partnership Firm, Kurli, Mussoorie,
District-Dehradun. ..... Respondents.

Hon'ble P.C.Verma,J.

This second appeal has been filed against the judgment and decree dated 24.4.2001 passed by the District Judge, Dehradun, in Civil Appeal No. 45 of 1995, affirming the trial court's judgment and decree dated 01.6.1995 passed in Regular Suit No.320 of 1981. The learned counsel for the appellant relying on a judgment of Hon'ble Apex Court Santosh Hazari versus Purshottam Tiwari, reported in Supreme Court Cases 2001 (Vol.III), page 179 that if the reasons are not recorded by the appellate court for affirming or upsetting the trial court's judgment and decree, then it will be a substantial question of law in the second appeal. When the learned counsel for appellant was asked to apply this ratio in his own case, he read the judgment of appellate court where he himself read the reasons recorded by the appellate court affirming the judgment passed by the trial court. Therefore, in the facts and circumstances of the case, the ratio of aforesaid judgment is not attracted.

Learned counsel for the appellant submits

that in terms of the compromise the appellant is entitled to put the doors in view of the decree dated 09.11.1978. it is needless to say that the parties in the said suit entering into compromise, on the basis of which the said suitwas decreed, are bound by the said decree and, therefore, no observation is required to be made.

No other substantial question of law arises for being considered in the second appeal. Therefore, the appeal is dismissed. No order as to costs.

(P.C.Verma,J.)

23.7.2001
P.Singh.